

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL NO. 98-1664 (CCC)

CIVIL NO. 98-2344 (CCC)

Consolidated Cases

vs.

33.92536 ACRES OF LAND, MORE
OR LESS, SITUATED IN VEGA BAJA
COMMONWEALTH OF PUERTO RICO
AND JUAN PIZA-BLONDET, AND
UNKNOWN OWNERS

Defendants.

**Defendant Juan Piza-Blondet's Responses
to First Set of Interrogatories Propounded by the United States**

NOW COMES Defendant Juan Piza-Blondet who in response to the First Set of Interrogatories propounded by the United States, answers as follows:

Response to Interrogatory No. 1:

The individuals who participated in preparing the responses to all discovery requests were David C. Vidrine, Juan Piza-Blondet and Mr. Carlos Gaztambide. The information contained in the responses to same was supplied by Mr. Piza-Blondet and Mr. Gaztambide.

Response to Interrogatory No. 2:

Juan Piza-Blondet:

Mr. Blondet will testify concerning his acquisition, use and plans for future use of the Subject Property and Entire Parcel. Mr. Piza-Blondet will also testify about the use and sale of sand and silica contained upon his property and the economic value of same.

Mr. Carlos E. Gaztambide:

Mr. Carlos E. Gaztambide is a professional appraiser who will provide expert testimony concerning the use and value of the taken property and the entire parcel of property owned by Mr. Piza-Blondet. Mr. Gaztambide's testimony, subject matter of testimony and opinions are fully set forth in his Declaration of May, 2005 and his Expert Report of June 13, 2005. In response to this Interrogatory, Mr. Piza-Blondet incorporates by Reference as if copied herein *in extensio* the aforementioned Declaration and Expert Report which precisely set forth Mr. Gaztambide's opinion(s) and expected testimony. Mr. Gaztambide will also provide Expert opinion concerning the various other fact and Expert opinions rendered on behalf of Mr. Piza-Blondet and the United States. Mr. Piza-Blondet will supplement this response as required and following the close of expert opinion, reporting and formal discovery.

Dr. James Joyce:

Dr. James Joyce is a Professor of Geology who will provide expert testimony concerning the type, amount, use and value of sand and other silicas located on the Piza-Blondet property. Dr. Joyce's testimony, subject matter of testimony and opinions are fully set forth in his Expert Reports of June 13, 2005 and Feb 9, 2006. In response to this Interrogatory, Mr. Piza-Blondet incorporates by Reference as if copied herein *in extensio* the aforementioned Expert Reports which precisely set forth Dr. Joyce's opinion(s) and expected testimony. Dr. Joyce will also provide Expert opinion concerning the various other fact and Expert opinions rendered on behalf of Mr. Piza-Blondet and the United States. Mr. Piza-Blondet will supplement this response as required and following the close of expert opinion, reporting and formal discovery.

Any person listed by or consulted by the United States or who is identified during the course of discovery.

Response to Interrogatory No. 3:

Juan Piza-Blondet:

Mr. Juan Piza-Blondet has personal knowledge of the facts and circumstances surrounding his acquisition, use, plans for use and economic benefits for his property located in Vega Baja. Mr. Juan Piza-Blondet also was the custodian of the documents produced to the United States. Mr. Piza-Blondet will supplement this response as required and following the close of expert opinion, reporting and formal discovery.

Mr. Carlos E. Gaztambide:

See Response to Interrogatory No. 2.

Dr. James Joyce:

See Response to Interrogatory No. 2.

Parties, Entities identified by Defendant's Exhibits:

The persons, parties and, or entities identified by Defendant's Exhibits are in possession of knowledge which is set forth in the subject matter of the referenced documents. The documents are the best evidence of their contents and the knowledge, etc. possessed by said persons, parties and, or entities.

Response to Interrogatory No. 4:

There are several projects in planning to perspective. I will start with the largest 1st Paseo del Mar project comprising Cerro Guarico and adjacent coconut plantation, plus land surrounding tower property.

Borings have been made by PI & M. Property is suitable for walk-up or high rise construction. Study by expert for Institute of Culture clears property for Development.

Study can be provided upon request. Copy has been given to P.R. Institute of Culture. Group is presently waiting for appointment with secretary of Natural Resources to explain that Cerro Guarico presently its on south side is being constructed with a special community of small lots or R-3 Zoning.

The project would comprise of 20 units per cuerda. The project would be on about 80 cuerdas divided for financing reasons in 5 to 10 cuerdas lots. Also on the lower part of property a lake to golf course is envisioned on 100 to 120 cuerdas, with lakes to foster wild life and villas around these lake and wild life refuges.

About 1.53 kilometers from the property, 62 walk-ups have been completed sold out with an excellent project by Ing. Chipi.

This has made Doral Bank very receptive to walk-ups projects in this costal area. It will start by end of this year, completion of 1,600 units or more would take over 10 years.

At this moment Caribbean General Group preceded y Ing. Manuel Rivera González wishes to purchase to develop these land. They have an advantage because they are currently building the special community consisting of two parts with over 100 units on small lots. They have brought in sewer for 500 units.

Presently the sewage has been approved and constructed.

The projects are being prepared using information on different agencies already known.

Project 2 Developer Juan Figueroa who already bought 1 cuerda in 1998 for \$200,000.00 plus \$50,00.00 is presently buying over 8 cuerdas at \$400,000.00 per cuerda to build 170 walk-ups. Plans are being presented in Planning Board by Ing. Samuel Rodríguez Pacheco. Property has been measured and topography has been done plus plans of buildings.

Project 3 Ing. José Colón is going to Building 8 houses of 4 bedrooms and 4 bathrooms on second street. Sales are with TIRI Real Estate.

Project 4 Juan Pizá Trias Street has been sold out with houses being finished. Seven have been finished with families already moved in.

The corner house has 3 bedrooms with an over 6,000 square foot house with swimming pool worth over a \$1,000,000. A second house has a pool also.

In 1995 Mr. Manuel Aloyo Carreras bought two lots of 7 ½ cdas plus 14 cuerdas at \$50,000 per cuerdas. He built a beautiful avenue for entrance with a guard house for controlled access plus two houses and started 11 more. He had permits to build 79 units.

At present we have 2 lots in perspective to sell to Dr. William F. Rotaquez Borges of 900 square meter for \$200,000.00 cash.

Another two lots to Mrs. González who is related the owner of Pan Am Grain and Arroz Rico for \$230,000 lots of 900 square meters.

These will be the last lots sold because from now on we wish to go to clusters of higher density projects.

Financing in house purchases have been by R.G. Bank, Doral Bank, Scotia Bank and Banco Popular.

In the Street called Felipe García were we sold lots we are in the process with Ing. Chipi of presenting 4 to 6 units on a 900 square meter lot. The same density as approved to Mr. Arraiza directly in front of said lots on the other side of street.

Lots were sold on this street financed by R.G. Bank to Maribel Soto who is sub manager of Sheraton Hotel in Old San Juan.

We presented next to FAA tower lands two projects, one of 72 unit walk-up on 8 large lots. They were put on hold but not denied.

See Exhibits 1-129 generally.

Response to Interrogatory No. 5:

Owen Illinois - silica sand - See Exhibit 90

Wilfredo Torres - sand extraction

Gómez Hermanos - sand extraction

Jaime Ferrer Ball - sand extraction

Mr. Toledo - sand extraction

Victor Torres - sand extraction

Response to Interrogatory No. 6:

Eng. José Colón

TIRI Real Estate

Mr. Luis Cuevas Ibern

Eng. Juan Santiago

Eng. Benjamin Pomales

Mr. José Bacardi

Eng. Rafael Torrens of Levitt & Sons

Mr. Radames Nazario

Mr. Pancho Pagán Pujols

Eng. Faufi Nater

Eng. Juan Figueroa

Response to Interrogatory No. 7:

See Response to Interrogatory No. 4.

Response to Interrogatory No. 8:

See, response to Interrogatory No. 2. The methodology utilized by the Experts is set forth in their respective Declarations and Reports. Mr. Piza-Blondet relied upon the Expert opinions of Mr. Carlos Gaztambide and Dr. Joyce to reach an opinion of just compensation owed him for the taking of his property. The value of the property and method of calculation of same is fully set forth in the Expert reports rendered by Mr. Gaztambide and Dr. Joyce. Mr. Piza-Blondet will supplement this response as required and following the close of expert opinion, reporting and formal discovery. Further answering:

Below we will summarize the methodology, facts, assumptions, and calculations used by the appraiser retained by land owner Mr. Juan Pizá Blondet in reaching his opinion of the amount of just compensation owned for the taking of the subject property. The appraisal report introduced as evidence is self explanatory. The purpose of the appraisal is to estimate the Market Value of the Fee Simple Estate on the subject property as of December 2, 1998. The last inspection date of the subject property was June 3, 2005. This refers to a parcel of land considered vacant for the purposes of the appraisal comprising 34.930 cuerdas (33.92356 acres) located at Km. 3.8 (interior) P.R. Road 867, Yeguada Ward, Vega Baja, Puerto Rico. According to Title Search Number 05-11226 prepared by Hato Rey Title Insurance Agency, Inc. with offices at MCS Plaza, Office 809, 255 Ponce de León Avenue, Hato Rey, Puerto Rico 00917 with telephone number 787/274-1200 the property is recorded as Number 27,674, Folio 241, Book 380, Vega Baja, Bayamón Property Registry, Section 4. According to the legal description the property comprises 34.0380 cuerdas equivalent to 133,782.87 square meters identified at the Inscription Plan as Lot A-2 and contains a reinforced concrete structure with a homer antenna (H.H.W.) in use by the Federal Aviation Administration. The subject property Number 27,674 was segregated from Property Number 1,987 as per deed number 14, November 26, 1997 before Carlos Colón Marchand, Esquire, recorded at Folio 241, Book 380, Vega Baja, first inscription. The owner of record at the Registry of the Property is Mr. Juan Pizá Blondet.

The Market of the Fee Simple Estate of the subject property was estimated by the only applicable method, the Land Sales Comparison Approach. For the analysis, nine comparable sales were included, described and subject to the Quantitative Analysis that appears on pages 62 through 67 of the appraisal report.

Of the total area of the subject 19.5608 cuerdas are rated upland and were valued at \$50,000.00 per cuerda based on comparables L-1, L-2 and L-3 which reflected a range from \$49,300.00 to \$59,000.00 per cuerda. The Highest and Best Use of the upland is residential development for the middle class segment of the region. Furthermore the analysis of comparable sales L-4 through L-9 indicated a range

from \$6,400.00 to \$11,000.00 per cuerda for the wetland section of the subject property which comprises 15.396 cuerdas. The unitary applicable within the range evidenced by the market is \$9,000.00 per cuerda for the 15.396 cuerdas considered wetland.

Based on the above explained analysis the Market Value of the subject property is estimated as follows:

Upland Section of the Subject Property	\$ 980,000.00
Wetland Section of the Subject Property	\$ 140,000.00
Total Value Estimate	\$1,120,000.00

It is important to mention that the above analysis based on the upland and wetland categorization of the land that comprises the subject property is based on local jurisprudence established by the Puerto Rico Supreme Court in Pueblo Vs. Sucesion Quiñones, 71D.P.R.261 and ELA vs. Sociedad Civil Agrícola e Industrial 104 D.P.R.392, as well as Nichols on Eminent Domain, Volume 4, Section 12-314.

Besides the appraisal of the land resources Mr. Juan Pizá Blondet retained Dr. James Joyce, Phd, Professor of Geology of the University of Puerto Rico, Mayaguez Campus, Box 9017, Mayaguez, Puerto Rico 00681-9017. Dr. Joyce estimated the potential volume of extractable silica sand lost to exploitation due to the taking. He estimated a minimum probable scenario of 100,000 cubic meters, in a maximum probable scenario of 260,000 cubic meters and a most probable scenario of 200,000 cubic meters.

Based on the minimum sand extraction potential the present value of the income stream was estimated by the appraiser in \$3,250,000.00 and the present value of the most probable sand extraction potential was estimated by the appraiser on \$6,300,000.00. Based on the above computations, the Lower Limit of Market Value of the Fee Simple Estate of the sand deposits in the subject property was estimated at \$3,000,000.00 while the Upper Limit of Value was estimated in \$6,000,000.00.

COMPUTATIONS CONDUCTIVE TO A VALUE INDICATION
 BY THE INCOME APPROACH
 BASED ON THE "MINIMUM" SAND EXTRACTION POTENTIAL

Total Volume Available for Extraction in Meters ³	100,000
meters ³	
Total Volume Available for Extraction in Tons (100,000 meters ³ x 1.7 ton/mtr ³)	170,000
tons	
Daily Extraction Potential (1,000 meters ³ = 1.7 tons)	1,700
tons	
Estimated Daily Extraction (80%)	1,360 tons
Total Number of Days (170,000/1,360 tons)	125 days
Total Number of Months (125/20 days/months)	6.25 months
Total Monthly Income	
1,360 tons/day x \$30 per ton x 0.80 (net of 20% expenses) x 20 days	
	\$652,800
Discount Rate	15%
Discount Factor	5.7460
Present Value on First Day of Operation	
\$3,750,995	
Deferral Factor for One Year	
0.8696	
Present Value of Income Stream	\$3,261,865
	Rounded to \$3,250,000

COMPUTATIONS CONDUCTIVE TO A VALUE INDICATION

BY THE INCOME APPROACH
 BASED ON THE "MOST PROBABLE" SAND EXTRACTION POTENTIAL

Total Volume Available for Extraction in Meters ³	200,000
meters ³	
Total Volume Available for Extraction in Tons (200,000 meters ³ x 1.7 ton/mtr ³)	340,000
tons	
Daily Extraction Potential (1,000 meters ³ = 1.7 tons)	1,700
tons	
Estimated Daily Extraction (80%)	1,360 tons
Total Number of Days (340,000/1,360 tons)	250
days	
Total Number of Months (250/20 days/months)	12.5 months
Total Monthly Income	
1,360 tons/day x \$30 per ton x 0.80 (net of 20% expenses) x 20 days	
	\$652,800
Discount Rate	15%
Discount Factor	11.0793
Present Value on First Day of Operation	
\$7,232,567	
Deferral Factor for One Year	
0.8696	
Present Value of Income Stream	\$6,289,440
	Rounded to \$6,300,000

Response to Interrogatory No. 9:

Mr. Piza-Blondet presented a plan to the Planning Board to divide the middle part of the property in eight large lots in order to facilitate the development and sale of lots.

Mr. Piza-Blondet also presented a 72 unit walk-up in one of the lots. In the same mentality Mr. Piza-Blondet segregated the lot belonging to the Tower from the rest of the property which he wished to dedicate to high density residential development.

Response to Interrogatory No. 10:

The property was purchased in approximately 1958 for approximately \$180,000 USD from Gascop Ayala with the purchase price being paid in either 2 or 3 annual installments.. Mr. Juan Piza-Blondet subsequently inherited the property in approximately 1977.

Response to Interrogatory No. 11:

See Response to Interrogatory No. 4 and Exhibits 1-129.

RESPECTFULLY SUBMITTED,

/s David C. Vidrine

J. Wayne Mumphrey (La. Bar Roll No. 9824)

David C. Vidrine (La. Bar Roll No. 21930)

Mumphrey Law Firm

625 Baronne Street

New Orleans, LA 70113

Telephone: (504) 569-0661

Telecopier: (504) 569-0665

Copies to:

JOSE M. PIZARRO ZAYAS
Assistant U.S. Attorney
Room 452 Federal Building
Hato Rey, Puerto Rico 00918
Tel. 766-5656

PAUL HARRISON
JEFFREY M. TAPICK
Attorneys, U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 561 - Ben Franklin Station
Washington, D.C. 20044
Telephone: 202-305-0299
Fax: 202-305-0398

Certificate of Service

I HEREBY CERTIFY that on this 31st day of March, 2006, a true and correct copy of the foregoing Responses to First Set of Interrogatories Propounded by the United States was served via email addressed to:

Jeffrey M. Tapick
Jeffrey.Tapick@usdoj.gov

/s David C. Vidrine

David C. Vidrine